

EXHIBIT A

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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3 -----x

In re REFCO, INC. SECURITIES
4 LITIGATION 07-MDL-1902

5 -----x

This Document Relates To:

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In re REFCO, INC. SECURITIES
7 LITIGATION 05 Civ. 8626
(GEL)

8

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9

And All Other Cases Subject to Deposition
10 Protocol Order

11 -----x

12 VOLUME 1

13

December 14, 2009

14

9:39 a.m.

15

16 Videotaped deposition of SANTO C. MAGGIO,
17 pursuant to notice, at the offices of White &
18 Case LLP, 1155 Avenue of the Americas, New York,
19 New York, before Eric J. Finz, a Shorthand
20 Reporter and Notary Public within and for the
21 State of New York.

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1 SANTO C. MAGGIO

2 flow problems.

3 A. The first instance was
4 sometime in the late '80s, when I was
5 asking the firm to do a dividend
6 retransaction, where I needed a
7 short-term borrowing of several million
8 dollars, I forget exactly how much. And
9 Bill Karsh told me that Refco lost its
10 cattle feeding operations, I didn't quite
11 understand what that meant. But what he
12 told me was that it lost use of the
13 customer funds in its cattle feeding
14 operation, and lost use of the inventory
15 that it was pledging for its cattle
16 feeding operations. And so that Refco
17 did not have the cash and was scrounging
18 around for cash to supplement the funds
19 it was using to fund its operations.

20 Q. Did you ever come to an
21 understanding as to what the cattle
22 feeding operations were?

23 A. No. I've heard jokes about
24 it, but I didn't quite understand it.

25 Q. Were there other incidents

1 SANTO C. MAGGIO

2 prior to 1997 that led you to believe
3 that Refco was experiencing cash flow
4 problems?

5 A. Yes.

6 Q. Could you just generally
7 describe those for me. You don't have to
8 get into great detail.

9 A. In 1991, '92, the firm, Phil
10 Bennett asked me if I could make --
11 arrange with Refco, Inc., which was
12 affiliate to Refco Securities, a
13 transaction where we can utilize some of
14 Refco, Inc.'s customer funds, seg funds,
15 to the tune of \$25 million. Myself and
16 Ray Lacy arranged a situation where we
17 siphoned off \$25 million of the customer
18 seg funds, and I moved that money up to a
19 fund called Refco Capital, which at that
20 time was the treasury and banking arm of
21 Refco Group.

22 Q. What are customer seg funds?

23 A. Broker/dealers and FCMs are
24 required by SEC and CFTC rules to lock up
25 a certain portion, if not all of the

1 SANTO C. MAGGIO

2 funds that customers put on deposit. In
3 a bank that is basically labelled
4 customer seg funds, for the sole use of
5 Refco, Inc.'s or Refco Securities'
6 customers. The bottom line is that the
7 broker/dealer or FCM is not allowed to
8 touch those monies or is not allowed to
9 commingle those monies with its own
10 capital.

11 Q. So it was wrong for Refco to
12 siphon off the \$25 million of customer
13 seg funds to use for its own purposes?

14 A. Yes.

15 Q. Did that happen on more than
16 one occasion, where Refco would tap into
17 customer segregated funds?

18 A. Yes.

19 Q. For its own purposes?

20 A. Yes.

21 Q. And there were times even
22 prior to 1997 that Refco did not generate
23 sufficient fees from its brokerage
24 activities or its proprietary trading to
25 cover its day-to-day operations?

1 SANTO C. MAGGIO
2 you know, pension funds and cities, were
3 depositing monies at RCC, which was
4 utilized, which the company was utilizing
5 to fund its operations. So that was
6 happening very late '80s.

7 Q. It was not unusual for Refco
8 to siphon off or tap into customer assets
9 in order to fund its operations?

10 MR. RIEMAN: Objection to
11 form.

12 A. Define unusual, please.

13 Q. How frequently did that occur?

14 A. All the time.

15 Q. Did Refco ever arrange to
16 transfer customer funds that were in
17 segregation into nonsegregated accounts
18 so that it could use them for its own
19 purposes?

20 A. I don't quite understand that
21 question, sir.

22 Q. Did Refco ever take money
23 directly out of segregated funds,
24 customer segregated funds, in order to
25 use for its own purposes?

1 SANTO C. MAGGIO

2 MS. RENDON: Objection to
3 form.

4 A. I mentioned with the FCM that
5 we took \$25 million out of the segregated
6 accounts and sent it to Refco Capital
7 Corp.

8 Q. Did you take that money
9 directly out of the segregated account or
10 did you have to transfer it somewhere
11 first before you could use it?

12 A. We transferred it to Refco
13 Capital.

14 Q. Refco Capital Corporation or
15 Refco Capital Markets?

16 A. Actually Refco Capital Corp.

17 Q. And what was Refco Capital
18 Corporation?

19 A. It was a nonregulated entity
20 in Refco that handled the treasury and
21 financing and banking arms or cash
22 management arms -- cash management for
23 Refco Group in the entire '90s and early
24 2000s.

25 Q. Did Refco Capital Corp. serve